

Licensing & Regulatory Panel

Thursday 24 November 2016

A Licensing & Regulatory Panel will be held at the Town Hall, Royal Leamington Spa on Thursday 24 November 2016 at **10.00am**.

Membership: Councillors Ashford, Mrs Cain and Gifford.

Emergency Procedure

At the beginning of the meeting the emergency procedure for the Town Hall will be announced.

Agenda

1. **Appointment of Chair**

To appoint a Chair for the meeting.

2. **Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. **Application for a premises licence under the Licensing Act 2003 for 66-68 Clemens Street, Royal Leamington Spa**

To consider a report from Health & Community Protection **(Item 3/Page 1)**

Published Tuesday 15 November 2016

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 456114

E-Mail: committee@warwickdc.gov.uk

Enquiries about specific reports: Please contact the officer named in the report.

Details of all the Council's committees, councillors and agenda papers are available via our website www.warwickdc.gov.uk/committees

Please note that the majority of the meetings are held on the first floor at the Town Hall. If you feel that this may restrict you attending this meeting, please call (01926) 456114 prior to this meeting, so that we can assist you and make any necessary arrangements to help you attend the meeting.

The agenda is also available in large print, on request, prior to the meeting by calling 01926 456114.

 Licensing & Regulatory Committee 24 November 2016		Agenda Item No. 3
Title	Application for a premises licence under the Licensing Act 2003 for 66-68 Clemens Street, Royal Leamington Spa, CV31 2DN	
For further information about this report please contact	Emma Dudgeon, Licensing Enforcement Officer, Health and Community Protection. Tel: 01926 456113 Emma.dudgeon@warwickdc.gov.uk	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers	None	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality and Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service	4/11/2016	Marianne Rolfe
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)	4/11/2016	Moirra-Ann Grainger
Consultation & Community Engagement		
N/A		
Final Decision?		Yes
Suggested next steps - None		

1. **SUMMARY**

- 1.1 Warwick District Council Licensing Authority has received a valid application for a premises licence from Matthew Crowther for 66 -68 Clemens Street, Royal Leamington Spa.
- 1.2 Representations have been received in relation to this application for the consideration of the panel in the determination of the application.

2. **RECOMMENDATION**

- 2.1 Members are asked to consider the information contained in this report and decide whether the application for a premises licence for 66-68 Clemens Street, Royal Leamington Spa should be granted and, if so, whether the licence should be subject to any conditions.

3. **THE APPLICATION**

- 3.1 Matthew Crowther applied for a premises licence for 66-68 Clemens Street, Royal Leamington Spa on 3 October 2016. The premises licence is for a bar and restaurant.
- 3.2 Following discussions between the applicant, Environmental Health and Warwickshire Police, the applicant has amended their original application. The licensable activities requested are detailed in appendix 1.
- 3.3 An operating schedule, which has been submitted by the applicant and will form part of any licence issued, has been supplied as follows:

General

Well trained staff will contribute to a well-run premise.

All staff will be inducted into the brand using the brand handbook and all aspects of the Licensing Act 2003 will be covered and regularly refreshed.

Training records will always be available.

An accident book will be in use to record all accidents or incidents.

Prevention of Crime and Disorder

An Intruder Alarm will be fitted to the premises to protect it when closed.

All staff and back of house areas will be locked when not in use.

Emergency exits will be alarmed.

CCTV will be installed and will cover all entrances, exits, high value areas and point of sale areas.

The CCTV system will be cloud based and accessible via the Internet.

All employees will be inducted into the business and into the premises correctly and the company will hold regular briefings and meetings to communicate good practice and proper management.

Public Safety

Zero tolerance policy to drugs and improper behaviour.

All employees inducted correctly and the following training provided within three months of employment:

- conflict management
- emergency first aid awareness
- allergen awareness
- fire safety
- health and safety
- food safety

Ongoing refresher training to be provided to staff.

Within 6 months of employment all team members will be nominated to gain the APLS (Award for Licenced Premises Staff) and all managers and supervisors will be nominated to attend the NQPLH and will go on to obtain a Personal Licence.

Protection of Children From Harm

A documented policy will be put into place and all employees will be trained on the content.

A strict challenge 21 policy will be in use at all times and a refusals log will be kept updated.

No Adult entertainment will take place on the premises.

Access will be restricted to children during the evening unless dining with an adult.

The admission of children will be restricted up until a specified time.

Prevention of Public Nuisance

A noise management policy will be put into place and all employees will be trained on the content.

External areas will be regularly monitored and managed and external music will be reduced at 21:00 and turned off at 23:00.

Windows and Doors will be closed after 23:00.

Reservations will be managed effectively to reduce bottlenecks and prevent large numbers of guests arriving and departing together.

Notices will be displayed by the exits encouraging customers to leave quietly.

Doors to be fitted with soft cushion close functions to prevent doors slamming.

A taxi phone service will be provided and guests will be encouraged to wait indoors.

Suppliers will be given a delivery window of 08:00 until 18:00 on weekdays and 08:00 until 12:00 on weekends.

External lighting will be turned off when the business is closed or rear areas are not in use.

- 3.4 The Licensing Department have received three representations in relation to this application, these are attached as appendices 2 to 4. Representations were also received from Environmental Health and Warwickshire Police. However, additional conditions were agreed and subsequently their representations were withdrawn. These conditions will be added to any premises licence issued and are as follows:

1. The premises licence holder must ensure that :
 - a. CCTV cameras are located within the premises to cover all public areas
 - b. The system records clear images permitting the identification of individuals.

- c. The CCTV system is able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
- d. The CCTV system operates at all times while the premises are open. All equipment must have a constant and accurate time and date generation.
- e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
- f. There are members of trained staff at the premises during operating hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with the Data Protection Act 1998 (or any replacement legislation).
- 2. All Staff training records to be maintained and made available for inspection on reasonable request from responsible authority.
- 3. No persons under the age of 18 years will be allowed on the premises after 21.00hrs unless accompanied by a responsible adult of 18 years or above and with the express permission and knowledge of the DPS or someone acting under their authority
- 4. DPS to make on going professional risk assessments as to whether to employ door supervisors at anytime
- 5. Refusals book / register to be maintained and made available for inspection on reasonable request from responsible authority.
- 6. All windows and doors shall be kept closed after 23:00, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
- 7. Regulated entertainment shall only take place in the area(s) designated as restaurant on the accompanying floor plans.
- 8. The outside areas shall not be used after 23:00 hours and shall be cleared by that time.
- 9. Noise levels will be monitored on and off site at regular intervals to ensure that noise from activities at the venue do not give rise to a nuisance. The Designated Premises Supervisor or Duty Manager shall undertake a noise risk assessment of any activities at the venue to determine how regularly noise monitoring must take place.
- 10. No open vessels shall be taken outside the curtilage of the premises at any time.
- 11. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- 12. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

3.5 No representations have been received from:

- Fire Authority
- Enforcement Agency for Health and Safety.
- The Licensing Authority
- Authority Responsible for Planning
- National Health Service/Public Health
- Body responsible for the protection of children from harm
- Warwickshire County Council (Weights and Measures)

3.6 A Premises licences issued under the Licensing Act 2003 was in place at 66 Clemens Street between November 2005 and April 2015 when the licence was surrendered. The premises was previously known as Grand Union.

- 3.7 A plan of the premises provided by the applicant is attached as appendix 5, a map of the area is attached as appendix 6 and photographs of the area are attached as appendix 7.

4. **POLICY FRAMEWORK**

- 4.1 When considering the application the panel must give appropriate weight to:-
- a) The representations received.
 - b) Statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
 - c) The Council's Licensing Policy Statement (attached as appendix 6)
 - d) The Licensing Objectives, which are:-
 - i) The Prevention of Crime and Disorder.
 - ii) Public Safety.
 - iii) The Prevention of Public Nuisance.
 - iv) The Protection of Children from Harm.

However, it should only consider those licensing objectives which have been referred to in the representations received.

- 4.2 The Council's Licensing Policy Statement provides that the authority will take an objective view on all applications and will seek to attach appropriate and proportionate conditions to licences where necessary in order to ensure the promotion of the four licensing objectives. Each application will be judged on its own merits.
- 4.3 Details of the procedure adopted by the Licensing Committee for Panel Hearings have been supplied to the applicant and those making representations. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

5. **BUDGETARY FRAMEWORK**

- 5.1 There would be costs associated with any appeal against the decision as set out in 6.1 below.

6. **RISKS**

- 6.1 Any decision made by the Panel may be appealed against at a Magistrates Court within 21 days of the decision. There would be costs associated with responding to an appeal and the Council could be ordered to pay the Appellants costs if it is deemed to have behaved unreasonably.

Application for 66 – 68 Clemens Street

	Normal Opening Hours	Sale of alcohol for consumption on and off the premises	Live Music (Indoors) *	Recorded Music * (Indoors only)	Late Night Refreshment (Indoors and outdoors)
Monday	09:00 to 00:00	09:00 to 00:00	12:00 to 23:00	09:00 to 00:00	23:00 to 00:00
Tuesday	09:00 to 00:00	09:00 to 00:00	18:00 to 23:00	09:00 to 00:00	23:00 to 00:00
Wednesday	09:00 to 00:00	09:00 to 00:00	18:00 to 23:00	09:00 to 00:00	23:00 to 00:00
Thursday	09:00 to 00:00	09:00 to 01:00	18:00 to 23:00	09:00 to 00:00	23:00 to 01:00
Friday	09:00 to 00:00	09:00 to 02:00	18:00 to 23:00	09:00 to 00:00	23:00 to 02:00
Saturday	09:00 to 00:00	09:00 to 02:00	18:00 to 23:00	09:00 to 00:00	23:00 to 02:00
Sunday	09:00 to 00:00	09:00 to 00:00	12:00 to 18:00	09:00 to 00:00	23:00 to 00:00
Christmas and New Year		Until 02:00	Until 00:30		Until 02:00

* Between the hours of 08:00 and 23:00, when **amplified live music** is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises; or when **unamplified live music** is taking place to any number people on any premises, all licensing conditions applicable to the control of live music on this licence are deemed not to be in operation.

Between the hours of 08:00 and 23:00, when **recorded music** is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence are deemed not to be in operation.

Emma Dudgeon

From: Licensing
Sent: 07 October 2016 11:50
To: [REDACTED]
Subject: RE: Clemens Street Mamm Leisure

Good morning,

Thank you for your email.

A Licensing Officer will be in touch shortly after the end date for representations to confirm the details of the Licensing Panel.

We must make you aware that your representation, including your personal details, will be published in the agenda produced for the Licensing Panel which is a public document. The Licensing Department may exclude your personal details from the public agenda in exceptional circumstances. To discuss this please contact a member of the Licensing Department before 30 October 2016.

Kind regards

Emma

From: [REDACTED]
Sent: 07 October 2016 10:00
To: Licensing
Subject: Re: Clemens Street Mamm Leisure

The first, third and fourth statement.

Sent from Surface

From: licensing@warwickdc.gov.uk
Sent: Friday, 7 October 2016 09:34
To: [REDACTED]

Good morning Ms Wiltshire,

Any representations made in relation to a new premises licence application must relate to one or more of the below licensing objectives:

- Prevention of crime and disorder
- Protection of children from harm
- Public safety
- Prevention of public nuisance

In the interest of clarity, please could you confirm which of these licensing objectives you are making representations under.

Kind regards

Emma

Emma Dudgeon

Licensing Enforcement Officer

Health & Community Protection | Warwick District Council | Riverside House | Milverton Hill | Royal Leamington Spa | CV32 5HZ | 01926 456113

Emma.dudgeon@warwickdc.gov.uk | www.warwickdc.gov.uk

Please don't print this email unless you really need to.

From: [REDACTED]
Sent: 06 October 2016 19:16
To: Licensing
Cc: SOLAR
Subject: Clemens Street Mamm Leisure

I would like to raise concerns and my objection over the request for licensing of this establishing due to the high level of anti social behaviour that South Leamington residents are experiencing. Residents are being woken up many times throughout the night due to drunks and students walking home and making unacceptable noise. This venue will only create further disruption. The opening hours are quite late which means people will be walking back home in the early hours. I object strongly to this application. Having spoken to the police today who informed me they are stretched covering the town centre and tackling crime there.

Regards
Jodie Wiltshire

Sent from Surface

What's on - www.warwickdc.gov.uk/events

Latest news - www.warwickdc.gov.uk/news

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64 Clemens Street
Leamington Spa
Warwickshire
CV31 2DN

Licensing Department
Warwick District Council
Riverside House
Milverton Hill
Leamington Spa
CV32 5HZ

16 October 2016

Dear Sirs

Re Licensing application for 66/68 Clemens Street

I wish to object to terms of the licence being applied for in relation to the above premises.
My grounds are public nuisance and the prevention of crime and disorder.

I have lived in the house next door to the premises for the last 25 years and have always enjoyed a good relationship with my neighbours. It traded as a restaurant for many years and latterly was a restaurant and bar, which closed at a reasonable time in the evening.

Although Clemens Street is a busy commercial shopping street during the daytime, most of the businesses at the southern end of the street close by 7.00pm and the street resorts to being a residential street. There are 4 takeaway food shops in the lower part of the street which remain open.

Number 62 is surrounded by residential premises on all sides.

However the pedestrian footfall in the street is busy until the early hours of the morning as people return from the bars and clubs in the Town Centre. There is rarely any trouble as there is no reason for people to stop on their journey home. I believe if the licence is granted as currently requested that the premises will be a magnet for those seeking a late drink and there will be inevitably public nuisance and disorder caused.

By agreeing to a condition that the doors to the terrace and patio be locked at 11.00pm the applicant has correctly identified that the use of those areas beyond the hours of 11.00pm would cause public nuisance as the gathering of people in that area has caused noise and nuisance to all the neighbours in the past. However the effect of that condition is that it will lead to the gathering of people in the front of the premises on the street after those hours which has the potential to cause crime and disorder and public nuisance to all those who reside opposite and around the premises.

C.S.T.

18 OCT 2016

WARWICK DISTRICT COUNCIL

I would therefore ask that the closing hours of trading are the traditional public house hours of 2300 hours. Those wishing to drink later can go to the town centre bars which are open for late drinking and are less than 5 minutes walk away. Those are the appropriate hours for licensed premises in a densely occupied residential area.

I am concerned about the application for live music. The previous occupant had regular evenings of live unamplified music which although audible outside the premises did not cause any significant problems. They did have occasional party bookings which had heavy amplified music in the lower area. These caused considerable nuisance and the lower part of my house was unusable, and it was impossible to sleep in the upper part until the event ceased. These are old buildings and there is very little preventing sound transmission between them.

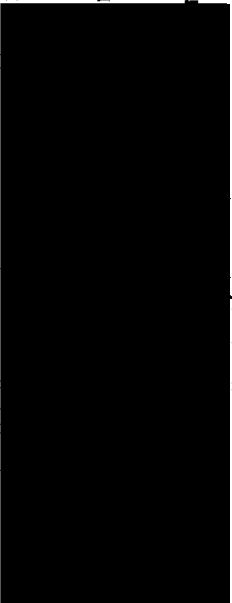
I do not wish to get into arguments with the applicant or start involving the council staff in measuring noise levels, and issuing noise abatement notices/. I would ask that there is a condition attached that there is no live amplified music on the premises until adequate sound insulation has been installed reducing the transmitted sound to an acceptable level. If the premises were being built today it would be part of the regulations for construction, so it is not unreasonable to ask for that to be provided. If the committee do not agree to that I would ask that all live music ceases at 2300 hours.

These conditions are being imposed to prevent public nuisance.

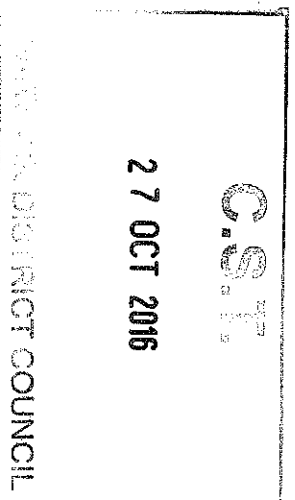
I wish to make it clear that I would like to see these premises being use again. However the use must be appropriate to the area in which the premises are situated. If I could be provided with a detailed plan of the area I would like to mark on it the number and type of residential properties

You

Gra



Date 24th October 2016



Mrs Rita & Mr Christopher Thorley
62A Clemens Street
Leamington Spa
CV31 2DN



Warwick District Council
Licensing
Riverside House
Milverton Hill
Leamington Spa
CV32 5HZ

Dear Licensing Department,

Re: Licence Application for the Sale of Alcohol for Consumption and Playing of Music on the Premises at 66-68 Clemens St, Leamington CV31 2DN

We would like to express our concern over the application to serve alcohol and the playing of loud music after 11pm at night.

We are concerned that the terms of the licence for late night drinking and the late night playing of music would disturb an otherwise peaceful enjoyment of our residence at 62A Clemens Street.

Other than Christmas Eve and New Years Eve, we would be grateful if further restrictions to the terms of the licence could be considered.

To avoid Public Nuisance due to sound vibration through these 200 year old Grade II listed buildings, our preference is that music is not played after 11pm.

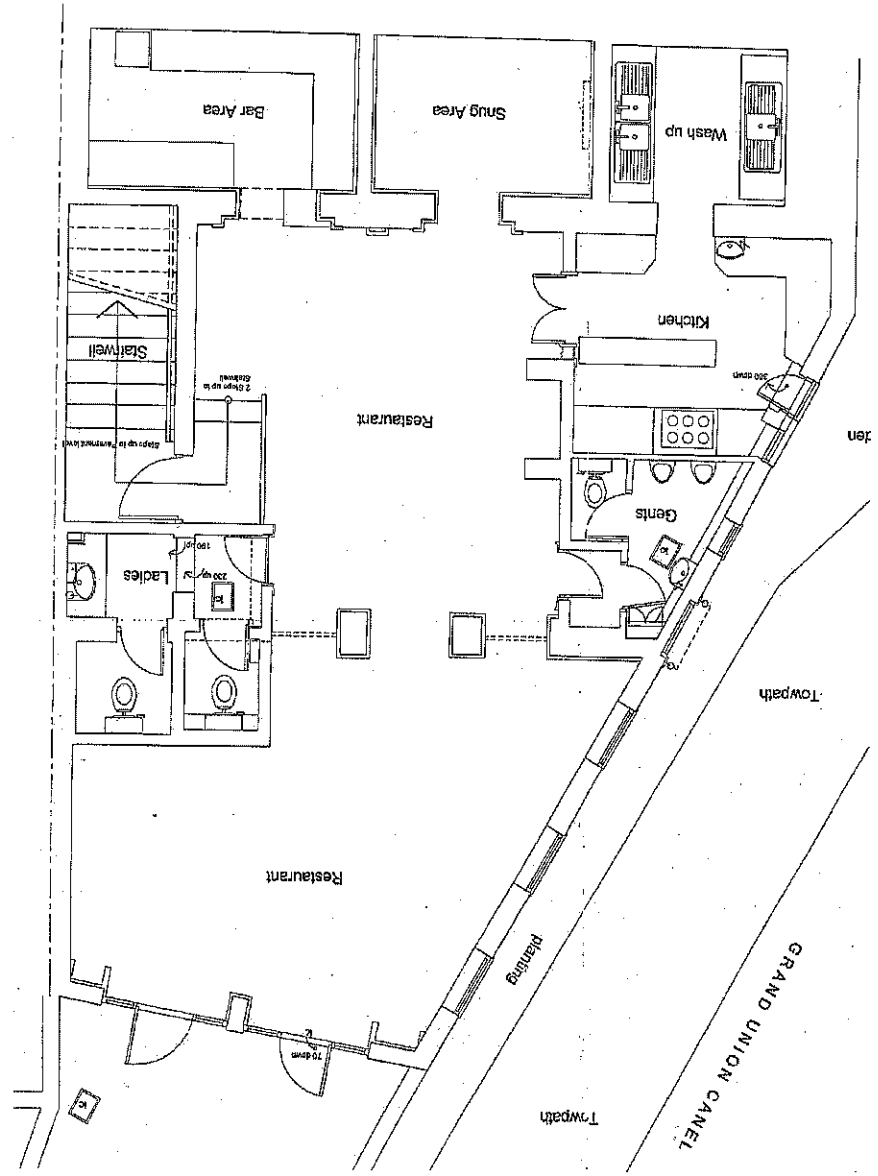
To avoid Crime and Disorder outside our residence due to late night drunken behaviour, our preference is that alcohol is not served after 11pm.

Thank you for your consideration of this objection to the terms of the licence in its present form.

Yours sincerely



Mrs Rita Thorley









problem